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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,921	09/12/2003	Manus J. Boyle	1462.1	7325

7590 05/17/2005
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EXAMINER

SWENSON, BRIAN L

ART UNIT PAPER NUMBER

3618

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/660,921	Applicant(s) BOYLE ET AL.	
	Examiner Brian Swenson	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-19 is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/12/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regards to Claim 1 recites the limitation "said handlebar assembly" in line 12. There is insufficient antecedent basis for this limitation in the claim.

In regards to Claim 11 recites the limitation "said seat" in line 1. There is insufficient antecedent basis for this limitation in the claim. There is antecedent basis for a seat in claim 10.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6-7 and 10, as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,793,848 issued to Gill et al.

Gill et al. teach in Figures 1-3 and respective portions of the specification of a scooter for carrying a person or persons, comprising: a rigid base (18) platform having a top, a bottom, a front, a rear, and symmetric left and right sides (Figure 2); a pair of non-

swivelable rear wheels (8) rigidly mounted to the rear of said platform and extending rearwardly and downwardly; a handle portion (7) having upper and lower ends; a pair of swivelable front wheels (5) rigidly mounted to the lower end of said handle portion; a push bar (14) having a mounting portion and an opposed push bar handle for gripping by a person pushing said scooter; a means for rigidly attaching said handle portion to said base platform near the front thereof (See Figure 1) with said handlebar assembly extending upwardly therefrom and said front wheels extending downwardly therefrom; and a means for rigidly attaching the mounting portion of said push bar (see sleeves 11 in Figure 1) to said base platform near the rear thereof, with said push bar extending upwardly and rearwardly therefrom. Figure 3, shows the push bar disengaged from sleeve (11).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,302,421 issued to Lee in view of U.S. Patent No. 1,872,142 issued to Holtzman.

Lee teaches in Figures 1 through 3c of a vehicle including: a pair of non-swivelable rear wheels (26) rigidly mounted to the rear of said platform and extending rearwardly and downwardly; a handle portion having upper and lower ends (24); a pair

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of swivelable front wheels (14) rigidly mounted to the lower end of said handle portion (see Figure 1C); a push bar (10B) having a mounting portion and an opposed push bar handle for gripping by a person pushing said scooter (Figure 1A); a means for rigidly attaching said handle portion to said base platform near the front (Figure 1C) thereof with said handle portion assembly extending upwardly therefrom (Figure 1A) and said front wheels extending downwardly therefrom; and a means for rigidly attaching the mounting portion of said push bar to said base platform near the rear thereof (Figure 1A), with said push bar extending upwardly and rearwardly therefrom.

Lee does not teach of a platform for the vehicle.

Holtzman teaches in Figures 1 and 2 of a combined bicycle and scooter including teaching of providing a platform with symmetrical left and right sides (Figure 2). It would have been obvious to one having ordinary skill in the art at the time of invention to provide a platform as taught by Holtzman in the invention taught by Lee. One would be motivated to provide a platform to provide a place for the users feet when the vehicle is being pushed by another person.

In regards to claim 2, Lee shows an embodiment in Figures 2A-22D where the handle portion includes a height adjustable means (46) for adjusting the position of said handlebar assembly to accommodate differently sized riders, see also Col. 12, lines 21-25.

In regards to claim 4, Lee shows a handle attachment means (40; steering shaft release pin) may be engaged to deploy said handle portion for riding of said scooter, or disengaged to stow said handle portion for storage of said scooter.

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4. Claim 3 and 5 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Holtzman and in further view of U.S. Patent Publication No. 2003/0001351 issued to Schauble et al.

Lee as modified by Holtzman disclose the claimed invention except for teaching of the handle being received within a sleeve to allow the length of the handle to be telescopically adjusted.

Schauble et al. teaches of a telescoping handle structure where sleeve (24) receives shaft (22) whose length can be adjusted by quick release (80), see at least paragraph [0021] and Figures 2 and 4.

It would have been obvious to one having ordinary skill in the art at the time of invention to include the telescopic adjustment as taught by Schauble et al. in the invention taught by Lee and Holtzman to allow the length of the handle to be adjusted to allow the vehicle to fit a variety of user heights.

5. Claim 8 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Holtzman and in further view of U.S. Patent No. 6,612,598 issued to Wu.

Lee as modified by Holtzman discloses the claimed invention except for a height adjustment means for the push bar for adjusting the vertical height of the push bar handle such that the each side of the push bar has a tubular insert cooperating with a tubular receiver permitting the telescoping inward and outward of the push bar handle, and a locking means for retaining the push bar handle in position.

Wu teaches in Figures 1-4 and respective portions of the specification of a vehicle with a push bar that can be adjusted vertically by a well-known telescopic assembly fixed with detent pins.

It would have been obvious to one having ordinary skill in the art at the time of invention to provide a rear push bar adjustment as taught by Wu, in the invention taught by Lee to allow the length of the rear push bar to be adjusted to allow the push bar to accommodate users of varying heights.

6. Claims 9 and 11 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Gill et al. in view of U.S. Patent No. 3,659,871 issued to Hott.

Gill et al. disclose the claimed invention except for teaching of a basket attached to the vehicle. Gill et al. also does not show a rear fender.

Hott et al. teach of a basket that can be attached by a clamp. It would have been obvious to one having ordinary skill in the art at the time of invention to provide a basket on the vehicle to provide the advantage of allowing the user to store items. Hott et al. also show a rear fender (140). It would have been obvious to one having ordinary skill in the art at the time of invention to provide a rear fender to protect the user's of the vehicle from debris kicked up by the rear wheels.

Allowable Subject Matter

Claims 12-19 are allowed.

The following is an examiner's statement of reasons for allowance: the primary reason for the allowance of the claims in this case is the inclusion of a: method for deploying and collapsing a collapsible four-wheeled scooter from a collapsed state to an

engaged state including the steps of pivoting the handle to an engaged position, lengthening the handle, engaging a push bar within a push bar attachment on a base of the scooter, and reversing the steps to collapse the scooter in combination with the totality of the other elements recited not found in the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 4,941,670 issued to Parr teaches of a ride-on scooter.

U.S. Patent No. 4,623,163 issued to Potts teaches of a four-wheeled handle propelled scooter.

U.S. Patent No. 3,656,777 issued to Keiser, Jr. teaches of a scooter.

U.S. Patent No. 2,586,495 issued to Woods teaches of a handle propelled baby carriage.

U.S. Patent No. 1,678,836 issued to Wessborg teaches of a wagon.

U.S. Patent No. 1,658,068 issued to White teaches of a scooter with a seat.

U.S. Patent No. 1,399,833 issued to Wiebe and U.S. Patent No. 1,467,271 issued to Gutekunst teaches of a toy vehicle with a plurality of handles.

U.S. Patent No. 519,443 issued to Chichester teaches of a wheeled chair.


U.S. Patent No. 6,874,802 issued to Gunter et al. and U.S. Patent No. 5,924,713 issued to Li teaches of an auxiliary handle for a vehicle.

U.S. Design Patent No. 433,654 issued to Gorvine et al. teach of a seated scooter.

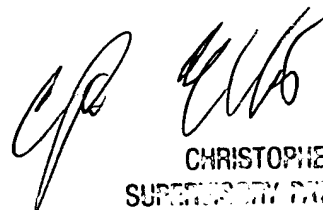
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Swenson whose telephone number is (571) 272-6699. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 8/17-03
bls

Brian Swenson
Examiner
Art Unit 3618


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